

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

*City of Pritchard, AL v. Purdue Pharma L.P. et al.*,  
1:18-op-45690-DAP (N.D. Ohio)

*Fayette County, Alabama et al. v. Purdue Pharma LP et al.*,  
1:18-op-45211-DAP (N.D. Ohio)

*Lamar County, Alabama et al v. Purdue Pharma LP et al.*,  
1:18-op-45210-DAP (N.D. Ohio)

*City of Orange Beach, Alabama v. Purdue Pharma, L.P. et al.*,  
1:19-op-45784-DAP (N.D. Ohio)

*City of Prattville, Alabama v. Purdue Pharma, L.P. et al.*,  
1:19-op-45783-DAP (N.D. Ohio)

*Lauderdale County, Alabama v. Teva Pharmaceuticals USA, Inc., et al.*,  
1:19-op-45845-DAP (N.D. Ohio)

*City of Sylacauga v. Teva Pharmaceuticals USA, Inc. et al.*,  
1:19-op-45900-DAP (N.D. Ohio)

*City of Homewood, Alabama v. Teva Pharmaceuticals et al.*,  
1:19-op-45973-DAP (N.D. Ohio)

*City of Fairhope, Alabama v. Teva Pharmaceuticals USA, Inc. et al.*,  
1:22-op-45002-DAP (N.D. Ohio)

*City of Huntington Beach, California v. Purdue Pharma L.P. et al.*,  
1:18-op-45588-DAP (N.D. Ohio)

*County of San Bernardino et al v. Purdue Pharma L.P. et al.*,  
1:18-op-46032-DAP (N.D. Ohio)

*City of Laguna Beach, California v. Purdue Pharma, L.P. et al.*,  
1:19-op-45447-DAP (N.D. Ohio)

*County of Santa Clara, California et al v. CVS Health Corporation et al.*,  
1:22-op-45030-DAP (N.D. Ohio)

*County of Los Angeles and the People of the State of California v. CVS Health Corporation et al.*,  
1:22-op-45032-DAP (N.D. Ohio)

**MDL No. 2804**

**Case No. 17-md-2804**

**Judge Dan Aaron  
Polster**

*Pueblo County v. Purdue Pharma L.P. et al.*,  
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*City of Middletown v. Purdue Pharma L.P. et al.*,  
1:19-op-45651-DAP (N.D. Ohio)

*Town of Windham v. Teva Pharmaceuticals USA, Inc. et al.*,  
1:20-op-45103-DAP (N.D. Ohio)

*Town of Wethersfield v. Purdue Pharma L.P. et al.*,  
1:19-op-45663-DAP (N.D. Ohio)

*Sussex County, Delaware v. Purdue Pharma L.P. et al.*,  
1:19-op-45723-DAP (N.D. Ohio)

*Lee County v. Purdue Pharma L.P., et al.*,  
1:19-op-45671-DAP (N.D. Ohio)

*City of Nashville Georgia v. Purdue Pharma LP et al.*,  
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*Dade County, Georgia v. McKesson Corporation et al.*,  
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*Candler County Hospital Authority v. Amerisourcebergen Drug Corporation et al.*,  
1:18-op-45167-DAP (N.D. Ohio)

*County of Fannin v. Rite Aid of Georgia, Inc. et al.*,  
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*Board of Education of Thornton Township High Schools, District 205 et al v. Cephalon, Inc. et al.*,  
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*Board of Commissioners of the County of Allen v. Purdue Pharma LP et al.*,  
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*Appanoose County et al v. Allergan PLC et al.*,  
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*Kentucky River District Health Department v. Actavis LLC et al.*,  
1:19-op-45050-DAP (N.D. Ohio)

*Estill County Emergency Medical Services v. Amerisourcebergen Drug Corporation et al.*,  
1:18-op-46237-DAP (N.D. Ohio)

*Hardin County Fiscal Court et al v. Purdue Pharma L.P. et al.*,  
1:20-op-45063-DAP (N.D. Ohio)

*Lawrence County, Kentucky v. AmerisourceBergen Drug Corporation et al.*,  
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*Warren County v. Teva Pharmaceutical Industries Ltd. et al.*,  
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*Williams v. Purdue Pharma L P et al.*,  
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*City of Baton Rouge v. AmerisourceBergen Drug Corporation et al.*,  
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*Bossier City v. AmerisourceBergen Drug Corporation et al.*,  
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*Bossier Parish Emergency Medical Services Ambulance District v. AmerisourceBergen Drug Corporation et al.*,  
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*Bossier Parish v. Amerisourcebergen Drug Corporation et al.*,  
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*Caddo Parish v. AmerisourceBergen Drug Corporation et al.*,  
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*Russell v. Purdue Pharma L P et al.*,  
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*Hilton v. Purdue Pharma L P et al.*,  
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*Philly v. Purdue Pharma L P et al.*,  
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*St. James Parish v. AmerisourceBergen Drug Corporation et al.,*

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*St. Mary Parish School Board v. AmerisourceBergen Drug Corporation et al.,*

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*St. Mary Parish v. AmerisourceBergen Drug Corporation et al.,*

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*St. Tammany Fire Protection District No. 3 v. AmerisourceBergen Drug Corporation et al.,*

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*St. Tammany Fire Protection District No. 5 v. AmerisourceBergen Drug Corporation et al.,*

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*Champagne v. AmerisourceBergen Drug Corporation, et al.*,  
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*Passamaquoddy Tribe-Indian Township v. Purdue Pharma L.P. et al.*,  
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*Passamaquoddy Tribe-Pleasant Point v. Purdue Pharma L.P. et al.*,  
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*City of Havre De Grace, Maryland v. Purdue Pharma, L.P. et al.*,  
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*City Of Laurel, Maryland v. Purdue Pharma, L.P. et al.*,  
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*City of Mountain Lake Park, Maryland v. Purdue Pharma, L.P. et al.*,  
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*City of North East, Maryland v. Purdue Pharma, L.P. et al.*,  
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*City of Oakland, Maryland v. Purdue Pharma, L.P. et al.*,  
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*Village of Port Washington North, NY v. McKesson Corporation et al.*,  
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*Meigs County, Ohio v. Cardinal Health, Inc. et al.*,  
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*Lower Makefield Township v. Purdue Pharma L.P. et al.*,  
1:20-op-45284-DAP (N.D. Ohio)

*Morrisville Borough, Pennsylvania v. Purdue Pharma L.P. et al.*,  
1:19-op-45435-DAP (N.D. Ohio)

*Hancock County Board of Education et al v. Cephalon, Inc. et al.*,  
1:22-op-45027-DAP (N.D. Ohio)

*County of Bailey, Texas v. Cephalon Inc et al.*,  
1:20-op-45264-DAP (N.D. Ohio)

*County of Henderson, Texas v. Purdue Pharma L.P. et al.*,  
1:19-op-45684-DAP (N.D. Ohio)

*Botetourt County, Virginia v. Mallinckrodt PLC et al.*,  
1:20-op-45064-DAP (N.D. Ohio)

*Chesterfield County, VA v. Mallinckrodt PLC et al.*,  
1:20-op-45173-DAP (N.D. Ohio)

*City of Buena Vista, Virginia v. Mallinckrodt PLC et al.*,  
1:20-op-45159-DAP (N.D. Ohio)

*City of Fairfax, VA v. Mallinckrodt PLC et al.*,  
1:20-op-45177-DAP (N.D. Ohio)

*Dinwiddie County v. Mallinckrodt, PLC et al.*,  
1:20-op-45291-DAP (N.D. Ohio)

*Frederick County, Virginia v. Mallinckrodt PLC et al.*,  
1:20-op-45233-DAP (N.D. Ohio)

*Henrico County, VA v. Mallinckrodt PLC et al.*,  
1:20-op-45172-DAP (N.D. Ohio)

*King and Queen County, VA v. Mallinckrodt, PLC, et al.*,  
1:20-op-45138-DAP (N.D. Ohio)

*Northampton County, VA v. Mallinckrodt, PLC.*,  
1:20-op-45144-DAP (N.D. Ohio)

*Stafford County, VA v. Mallinckrodt PLC et al.*,  
1:20-op-45178-DAP (N.D. Ohio)

*Jefferson County v. Purdue Pharma L.P. et al.*,  
1:18-op-46023-DAP (N.D. Ohio)

*Columbia County v. Purdue Pharma LP et al.*,  
1:17-op-45118-DAP (N.D. Ohio)

**RITE AID’S MOTION TO DISMISS FOR FAILURE TO PROSECUTE**

Defendants Rite Aid Corporation; Rite Aid Hdqtrs. Corp.; Rite Aid of Maryland, Inc.; Eckerd Corporation; Thrifty Payless Inc.; Harco, Inc.; Rite Aid of Alabama, Inc.; Rite Aid of Georgia, Inc.; Rite Aid of Kentucky, Inc.; Rite Aid of Massachusetts, Inc.; Rite Aid of Maine, Inc.; Rite Aid of Ohio, Inc.; Rite Aid of Pennsylvania, Inc.; Rite Aid of Virginia, Inc.; Rite Aid of West Virginia, Inc.; and Rite Aid Drug Palace, Inc. (collectively, “Rite Aid”)<sup>1</sup> file this motion to dismiss Rite Aid with prejudice from the 207 actions listed in **Exhibit A** for failure to prosecute under Federal Rule of Civil Procedure 41(b) and this Court’s orders dated April 6, 2023. *See* ECF 4985; ECF 4986.

On January 3, 2023, this Court issued an Order requiring certain defendants to identify any case where Plaintiffs had failed to properly serve defendants with a complaint or a Plaintiff Fact Sheet. *See* ECF 4801. Subsequently, on April 6, 2023, this Court issued two orders extending the time for plaintiffs to serve defendants with complaints and to submit Plaintiff Fact Sheets. The first April 6 order (“Order Regarding Failures to Submit Plaintiff Fact Sheets”) required all governmental subdivision plaintiffs to “submit a complete PFS into the PFS Repository within 45 days of the date of this Order”—that is, by May 22, 2023—and further ordered that “[g]overnmental subdivision plaintiffs who fail to comply with this Order will have their case *dismissed with prejudice* for failure to prosecute, pursuant to F. R. Civ. P. 41(b).” ECF 4985 at 1 (emphasis in original). The order further stated that following the deadline, “any defendant may move for dismissal with prejudice of any case filed by a plaintiff that fails to comply with this Order.” *Id.* at 7.

Similarly, the Court’s second April 6 order (“Order Regarding Service of Process”) provided that all governmental subdivision plaintiffs who failed to perfect service of complaints within 45

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<sup>1</sup> In submitting this motion, Rite Aid does not waive, but expressly preserves, all defenses and objections based on lack of personal jurisdiction, including but not limited to defenses and objections by Rite Aid Corporation, a holding company that has never manufactured, marketed, distributed, or dispensed opioids in any state.

days shall “have their cases or claims, as appropriate, *dismissed with prejudice*,” and that following the deadline, “any defendant may move for dismissal with prejudice of any claim against them filed by a plaintiff that fails to comply with this Order.” ECF 4986 at 5-6 (emphasis in original).

One or more Rite Aid entities is a defendant in 207 cases where Plaintiffs either have not served a Plaintiff Fact Sheet as required by the Court’s Order Regarding Failures to Submit Plaintiff Fact Sheets (ECF 4985), or have not perfected service of a complaint as required by the Order Regarding Service of Process (ECF 4986), or have neither perfected service nor served a Plaintiff Fact Sheet. By failing to serve their complaints and/or failing to serve Plaintiff Fact Sheets, these Plaintiffs have failed to timely prosecute their claims against Rite Aid. *See* Fed. R. Civ. P. 41(b); *Harmon v. CSX Transp., Inc.*, 110 F.3d 364, 365-67 (6th Cir. 1997) (discussing district courts’ authority to dismiss cases *sua sponte* for failure to prosecute and affirming dismissal with prejudice).

Accordingly, Rite Aid respectfully moves for dismissal of all Rite Aid defendants with prejudice from each of the actions listed in **Exhibit A**.

Date: October 10, 2023

Respectfully submitted,

/s/ Matthew R. Ladd

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